

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO

Gordon D. Schaber Superior Court, Department 23

JUDICIAL OFFICER: HONORABLE JILL H. TALLEY

Courtroom Clerk: T. Shaddix
Court Attendant: C. Carrillo

CSR: Nancy Present #9906

34-2022-00320725-CU-OE-GDS

January 24, 2025
9:00 AM

Perrin Lee vs. Horne LLP

MINUTES

APPEARANCES:

Plaintiff Perrin Lee represented by Joanna Ghosh & Ori Edelstein, appearing for Carolyn Hunt Cottrell.

Plaintiff on behalf of other members of the general public similarly situated represented by Joanna Ghosh & Ori Edelstein, appearing for Carolyn Hunt Cottrell.

Defendant Horne LLP represented by Kate Juvinall, appearing for Julie E Totten.

Defendant Horne LLP represented by Kate Juvinall, appearing for Julie E Totten.

NATURE OF PROCEEDINGS: Hearing on Motion for Final Approval of Settlement

The above-entitled matter came before this Court for a motion for final approval of class action settlement with the above-named counsel present and appearing remotely via Zoom.

There being no objections from any parties the court affirms the tentative ruling.

TENTATIVE AFFIRMED

Plaintiff Perrin Lee's ("Plaintiff") motion for final approval of class action and Private Attorneys General Act ("PAGA") settlement is UNOPPOSED and TENTATIVELY GRANTED pending the final fairness hearing. (Code Civ. Proc., § 382, Cal. Rules of Court, Rule 3.769.)

Overview

This is a consolidated wage and hour class and representative action brought by Plaintiff against Defendant Horne, LLP ("Defendant"). Plaintiff's class action complaint alleges the following causes of action: (1) unpaid overtime, (2) unpaid meal period premiums, (3) unpaid rest period premiums, (4) unpaid minimum wages, (5) final wages not timely paid, (6) wages not timely paid during employment, (7) non-compliant wage statements, (8) failure to keep requisite payroll records, (9) unreimbursed business expenses, and (10) unfair business practices. Plaintiff's

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO

representative action compliant (Case No. 34-2022-00320699) alleges a single cause of action for violation of PAGA based on the same Labor Code violations alleged in the class action complaint.

The Parties engaged in formal and informal discovery. (Ghosh Decl. ¶ 6.) The Parties thereafter agreed to participate in private mediation. (Cottrell Decl. in Support of Preliminary Approval at ¶ 14.) In advance of the mediation, Defendant produced time and pay records for a random sample of Class members. (*Ibid.*) Plaintiff's counsel also conducted interviews with Class Members. (*Id.* at ¶ 16.) On May 11, 2023, the Parties participated in a private mediation with Hon. David Buckley (Ret.). (*Id.* at ¶ 13.) The case did not settle at the mediation and the Parties continued with litigation and settlement discussions. (*Id.* at ¶ 17.) In October of 2023, the Parties resumed settlement discussions with the mediator's assistance. (*Id.* at ¶ 18.) On January 3, 2024, the Parties' counsel held a conference call with the mediator wherein the mediator made a proposal and both Parties accepted. (*Id.* at ¶ 19.) Subsequently, the Parties entered into a written settlement agreement. (*Id.* at Ex. 1 ("Agreement").) On August 23, 2024, the Court granted preliminary settlement approval. Plaintiff now seeks final approval of this class and representative action settlement. This ruling incorporates by reference the definitions in the Agreement and all capitalized terms defined therein shall have the same meaning in this ruling as set forth in the Agreement.

Settlement Class Certification

The Court preliminarily certified the following settlement class: all persons employed by Defendant in California and classified as hourly, non-exempt employees to whom Defendant issued wage statements (but excluding any persons hired by a third party and assigned to work on an assignment for Defendant in California) during the period from May 27, 2018, to the date of preliminary approval. (Agreement ¶¶ 1.5 & 1.12.) On September 25, 2024, the Class Notice was mailed to all 249 Class Members. (Nava Decl. ¶ 7.) Ultimately, three notices were undeliverable after the settlement administrator performed a skip trace to locate updated addresses. (*Id.* at ¶¶ 8-10.) The deadline to respond to the Class Notice was November 25, 2024. As of December 19, 2024, there were two requests for exclusion, no submitted objections, and no workweek disputes. (*Id.* at ¶¶ 11-13.) The participation rate is 99.20%. The Court finds there has been no material change since the Court granted preliminary approval. Therefore, the Court intends to certify the proposed settlement class.

Aggrieved Employees

Aggrieved Employees are defined in the Agreement as all persons employed by Defendant in California and classified as hourly, non-exempt employees to whom Defendant issued wage statements (but excluding any persons hired by a third party and assigned to work on an

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO

assignment for Defendant in California) during the period from March 22, 2021, to the date of preliminary approval. (Agreement ¶¶ 1.4 & 1.31.) Aggrieved Employees will receive their share of the PAGA penalty regardless of whether they opt out of the Class portion of the settlement. (*Id.* at ¶ 7.5.4 & Ex. A (“Class Notice”).) Counsel submitted notice of the settlement to the Labor and Workforce Development Agency (“LWDA”). (Cottrell Decl. in Support of Preliminary Approval ¶ 30.)

Class Representative

The Court intends to appoint Plaintiff as Class Representative for settlement purposes only.

Class Counsel

The Court intends to appoint Schneider Wallace Cottrell Konecky LLP and Lawyers *for* Justice, PC as Class Counsel for settlement purposes only.

Fair, Adequate and Reasonable Settlement

The Court must find a settlement is “fair, adequate, and reasonable” before approving a class action settlement. (*Wershba v. Apple Computer* (2001) 91 Cal.App.4th 224, 244-245.) The trial court has broad discretion to determine whether a proposed settlement in a class action is fair, adequate, and reasonable. (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801.) “[A] presumption of fairness exists where: (1) the settlement is reached through arm’s-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small.” (*Id.* at 1802.) In making its fairness determination, the Court considers the strength of the Plaintiffs’ case, the risk, expenses, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the state of the proceedings, and the experience and views of counsel. (*Id.* at 1801.) In approving a class action settlement, the Court must “satisfy itself that the class settlement is within the ‘ballpark’ of reasonableness.” (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 133.)

This is a non-reversionary, opt-out settlement. Defendant will pay the Gross Settlement Amount (“GSA”) of \$950,000 and will separately pay employer-side payroll taxes. (Agreement ¶ 3.1.) The following will be paid out of the GSA: (1) a service payment in the amount of \$15,000 to the Class Representative; (2) attorney’s fees equaling 33% (\$313,500) and litigation costs in the amount of \$14,033.86 to Class Counsel; (3) administration costs in the amount of \$7,450; (4) individual Class member payments; and (5) a PAGA Penalty in the amount of \$20,000 (75% of which will be paid to the LWDA and 25% of which will be paid to Aggrieved Employees). (*Id.*

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO

at ¶¶ 3.2.1-3.2.5; Nava Decl. ¶ 19; Ghosh Decl. ¶¶ 8-13, 19 & Exs. A-B; Cottrell Decl. ¶ 7 & Exs. A-B.)

For tax purposes, individual settlement payments will be allocated as follows: 20% will be treated as wages and 80% will be treated as penalties and interest. (Agreement ¶ 3.2.4.1.) PAGA Payments will be treated entirely as penalties. (*Id.* at ¶ 3.2.5.2) Any funds from checks that are uncashed after 180 days will be sent to the California Unclaimed Property Fund in the name of the payee. (*Id.* at ¶¶ 4.3.1 & 4.3.3.) The average individual class member payment is estimated to be \$2,332.19. (Nava Decl. ¶ 16.) The average estimated PAGA Payment is \$21.46. (*Id.* at ¶ 18.)

Disposition

The Court tentatively finds that the settlement is fair, reasonable and adequate in light of all of the circumstances presented in the moving papers. Provided that no objection is asserted by any class member at the hearing on this matter, the Court anticipates signing the proposed order and judgment. The Court also intends to award attorney's fees, costs, and enhancement award in the amounts requested.

The Court sets a settlement compliance hearing for October 3, 2025 at 10:30 a.m. in this department. At least **15** days prior to the hearing, counsel shall file a declaration regarding the status of the distribution of the settlement funds. If the Court is satisfied that the settlement funds have been fully distributed, no appearance will be required.

The Court orders the parties to appear. **The parties may and are encouraged to appear by Zoom with the links below:**

To join by Zoom Link - <https://saccourt-ca-gov.zoomgov.com/my/sscdept23>

To join by phone dial (833) 568-8864 ID 16108301121

Parties requesting services of a court reporter will need to arrange for private court reporter services at their own expense, pursuant to Government code section 68086 and California Rules of Court, Rule 2.956. Requirements for requesting a court reporter are listed in the Policy for Official Reporter Pro Tempore available on the Sacramento Superior Court website at <https://www.saccourt.ca.gov/court-reporters/docs/crtrp-6a.pdf>. Parties may contact Court-Approved Official Reporters Pro Tempore by utilizing the list of Court Approved Official Reporters Pro Tempore available at <https://www.saccourt.ca.gov/court-reporters/docs/crtrp-13.Pdf>

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO

A Stipulation and Appointment of Official Reporter Pro Tempore (CV/E-206) is required to be signed by each party, the private court reporter, and the Judge prior to the hearing, if not using a reporter from the Court's Approved Official Reporter Pro Tempore list. Once the form is signed it must be filed with the clerk.

If a litigant has been granted a fee waiver and requests a court reporter, the party must submit a Request for Court Reporter by a Party with a Fee Waiver (CV/E-211) and it must be filed with the clerk at least 10 days prior to the hearing or at the time the proceeding is scheduled if less than 10 days away. Once approved, the clerk will be forward the form to the Court Reporter's Office and an official reporter will be provided.

Counsel for Plaintiff is directed to notice all parties of this order.

Status Conference regarding settlement compliance is scheduled for 10/03/2025 at 10:30 AM in Department 23 at Gordon D. Schaber Superior Court.

By: */s/ T. Shaddix*
T. Shaddix, Deputy Clerk
Minutes of: 01/24/2025
Entered on: 01/24/2025